IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 18TH OCTOBER, 2007 / 26TH ASWINA, 1929

WP(C).No. 24436 of 2007(H)

PETITIONER:

C.R. VIJAYAN NAIR, AGED 71 YEARS,
S/O. LATE SANKARA PANICKER, KALLUPARAMBIL,
PERUMTHANNI, TRIVANDRUM.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.P.P.BIJU

RESPONDENTS:

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1. THE REGIONAL PROVIDENT FUNDS
COMMISSIONER, BHAVISHYANITHI BHAVAN, PATTOM,
TRIVANDRUM.

2. THE CONTROLLER OF PENSION,
EMPLOYEES PROVIDENT FUND ORGANIZATION,
REGIONAL OFFICE, BHAVISHYANITHI BHAVAN, PATTOM,
TRIVANDRUM.

BY ADV. SRI.N.N.SUGUNAPALAN(SR.),SC FOR EPF
SMT.T.N.GIRIJA, SC FOR EPF ORGANISATION

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

(WP(C) No.24436 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of judgment dtd.7.3.06 in W.P(C) No.31474/2006.

Ext.P2: Copy of the communication dtd.1.6.2007 to the petitioner.

Ext.P3: Copy of the communication dtd.8.6.2007 to the petitioner.

Ext.P4: Copy of the request dtd.13.6.2007 to the first respondent.

Ext.P5: Copy of the communication dtd.11.7.2007 to the petitioner.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

W.P (C).NO. 24436 OF 2007 - H

Dated this the 18th day of October, 2007

J U D G M E N T

The petitioner is an employee retired from an establishment covered under the Employees' Provident Funds and Miscellaneous Provisions Act. He is entitled to pension under the Employees' Pension Scheme, 1995. Originally he was denied pension on the ground that he retired prior to 1995. In view of Ext.P1 judgment, the petitioner became entitled to pension. However, for that the respondents are directing the petitioner to pay an amount of Rs.65,358/- towards the contribution payable under the Employees' Family Pension Fund and its interest. They take a stand that only if the petitioner pays that amount, pension can be disbursed to the petitioner. The contention of the petitioner is that admittedly, he has become entitled to pension with arrears which would come to more than the amount now claimed. Therefore, nothing would prevent the

respondents from deducting that amount from the arrears of pension due to the petitioner and therefore, he seeks the following reliefs:-

> "i. issue a writ of mandamus or such other writ, order or direction, directing the respondents to adjust the arrears of pension with interest payable to the petitioner under the Employees Pension Scheme 1995 towards the contributions payable by him under Family Pension Fund 1971 and disburse the remaining amount and pension to him forthwith.
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> and
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> ii. issue such other order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;"

2. The Standing Counsel for the Provident Fund Organisation submits that the Rules do not permit such adjustment and therefore, if the petitioner does not remit the aforesaid amount of Rs.65,358/-, arrears of pension cannot be disbursed to him.

3. I am of opinion that the respondents should not stand on such technicalities. When arrears of pension would be due to the petitioner, the respondents

can certainly pay the balance amount after adjusting the amount due to be paid by the petitioner.

4. In the above circumstances, there would be a direction to the respondents to settle the pension amount due to the petitioner and pay the arrears after adjusting the above amount of Rs.65,358/- from the arrears due to the petitioner. This shall be done within a period of one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED: 07-09-2007